

PUBLIC NOTICE

**US Army Corps
of Engineers®**

APPLICATION FOR PERMIT

Public Notice/Application No.: 2003-00525-AP

Comment Period: December 22, 2003 through January 5, 2004

Applicant

Mirage Mountain, LLC
Mr. Mike Duffy
16927 East Saguaro Boulevard
Fountain Hills, Arizona 85268

AGENT

Kimley-Horn and Associates, Inc.
Ms. Marcie Martin
7600 North 15th Street, Suite 250
Phoenix, Arizona 85020
(602) 906-1105

Location

At the proposed Mirage of Scottsdale condominium complex in several unnamed washes located in a portion of Section 24, T3N, R5E, Scottsdale, Maricopa County, Arizona. The proposed project is located adjacent to the north side of Via Linda Road and between 132nd and 136th Street.

Activity

The Corps of Engineers has determined that the applicant's proposed 53 acre project will impact a total of 0.80 acres of waters of the United States for the construction of the Mirage of Scottsdale condominium project. Some construction has already occurred for this project. For more information, see page 3 of this notice and attached drawings.

Interested parties are hereby notified that an application has been received for a Department of the Army permit for the activity described herein and shown on the attached drawing(s). Interested parties are invited to provide their views on the proposed work, which will become a part of the record and will be considered in the decision. This permit application will be issued or denied under Section 404 of the Clean Water Act (33 U.S.C. 1344).

Comments can be e-mailed to cynthia.a.palaruan@usace.army.mil or mailed to:

**U. S. Army Corps of Engineers
ATTENTION: Regulatory Branch (2003-00525-AP)
3636 North Central Avenue, Suite 900
Phoenix, Arizona 85012-1939**

Evaluation Factors

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people. In addition, if the proposal would discharge dredged or fill material, the evaluation of the activity will include application of the EPA Guidelines (40 CFR 230) as required by Section 404 (b)(1) of the Clean Water Act.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Preliminary Review of Selected Factors

EIS Determination- A preliminary determination has been made that an environmental impact statement is not required for the proposed work.

Water Quality- The applicant will be required to obtain water quality certification, under Section 401 of the Clean Water Act, from the Arizona Department of Environmental Quality (ADEQ). For any proposed activity on land other than Tribal land that is subject to Section 404 jurisdiction, the applicant will be required to obtain water quality certification from ADEQ. For any proposed activity on land other than Tribal land that is subject to Section 404 jurisdiction, the applicant will be required to obtain water quality certification from the Arizona Department of Environmental Quality. Section 401 of the Clean Water Act requires that any applicant for an individual Section 404 permit provide proof of water quality certification to the Corps of Engineers.

Cultural Resources- The latest version of the National Register of Historic Places has been consulted and this site is not listed. SWCA, Inc. Environmental Consultants conducted an archaeological survey (dated April 2001) of the property. No historic properties eligible or potentially eligible for listing in the National Register of Historic Places would be impacted by the project. This review constitutes the extent of cultural resources investigations by the District Engineer, and he is otherwise unaware of the presence of such resources.

Endangered Species- The proposed project area contains habitat constituents similar to those that may be utilized by the Cactus ferruginous pygmy owl (*Glaucidium brasilianum cactorum*)(pygmy-owl). The Corps of Engineers is consulting with the U.S. Fish and Wildlife Service to determine any affects that the project may have on the pygmy-owl. The project is not expected to have any affects on any other federally

listed species or their designated critical habitat.

Public Hearing- Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearing shall state with particularity the reasons for holding a public hearing.

Proposed Activity for Which a Clean Water Act Section 404 Permit is Required

The proposed Mirage of Scottsdale project will include 178 condominium units in 57 buildings. The purpose of the project is to provide residential development. Associated roads, utilities, and recreational areas will be constructed as part of this project. Retention and detention basins will be constructed to control on-site drainage. This project includes the widening of Via Linda Road and the construction of 134th Street. The widening of Via Linda Road consists of constructing an additional through lane, a bicycle lane, and a sidewalk to the north side of the existing roadway. Water and sewer lines will be installed in the Via Linda Road right-of-way. The construction of 134th Street includes one travel lane in each direction and a cul-de-sac approximately 700 feet north of Via Linda Road.

Within the project site, waters of the United States consist of unnamed ephemeral washes totaling 1.10 acres. From this amount, the Corps of Engineers has determined that the total direct and indirect impact of the project will affect 0.80 acres of waters of the United States. This impact will occur from the applicant filling the washes on the project site to construct the condominium complex and associated features.

On August 26, 2003, the U.S. Fish and Wildlife Service reported to the Corps of Engineers that the applicant commenced construction of the Mirage of Scottsdale condominium project without a permit. The Corps of Engineers verified that the applicant's construction activities involved discharging dredged and/or fill material into waters of the United States and construction outside of waters of the United States (in the upland areas) for which Section 7 (Endangered Species Act) consultation was occurring between the U.S. Fish and Wildlife Service and the Corps of Engineers. The Corps of Engineers sent a Cease and Desist Order and Notice of Violation of the Clean Water Act to the applicant on September 19, 2003.

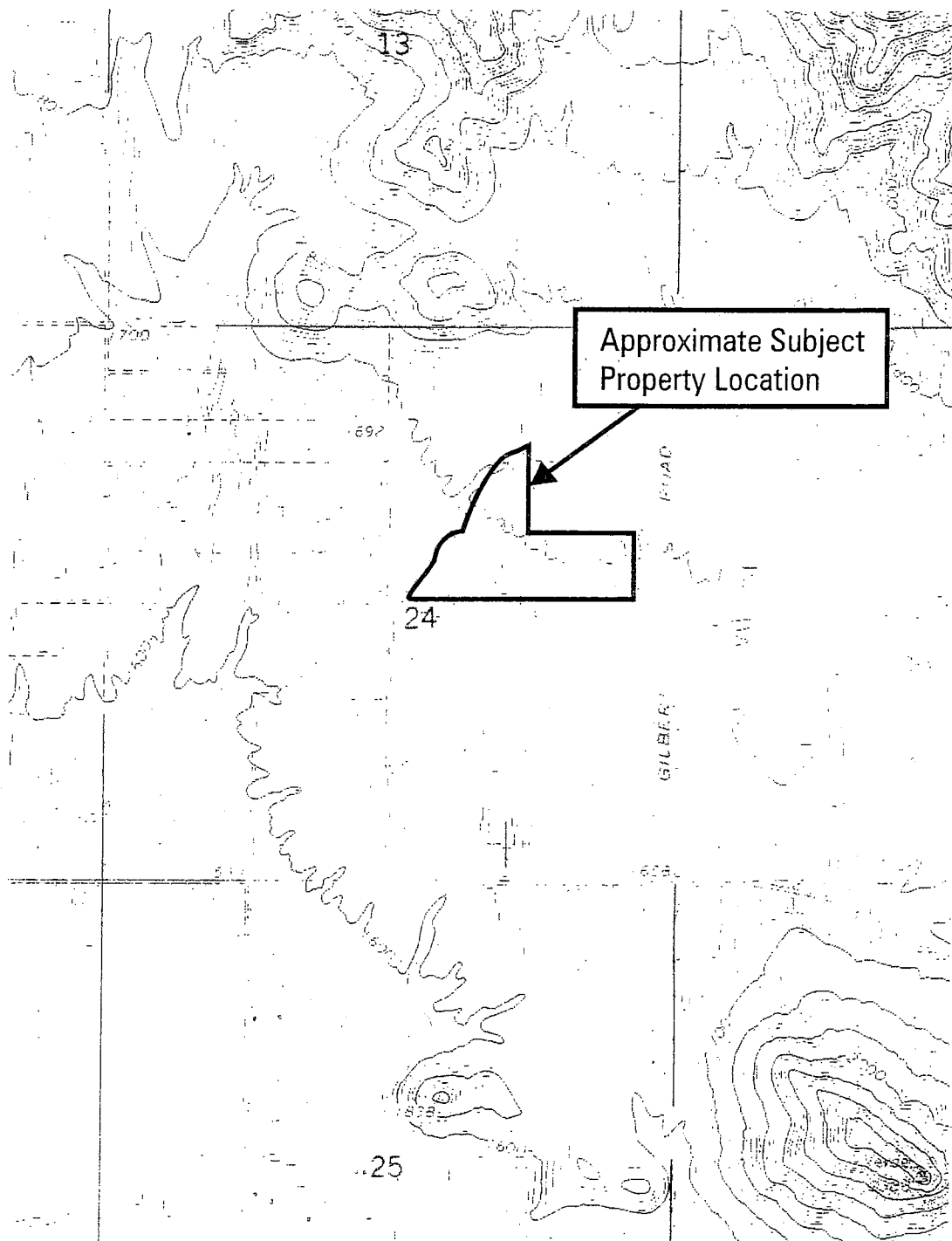
The applicant is currently working with the Corps of Engineers to resolve their Clean Water Act Section 404 violation. The applicant is seeking after-the-fact 404 permit authorization to retain the fill they have discharged into waters of the U.S. Of the 0.80 acres of impact to waters of the U.S. proposed to be impacted by this project, 0.46 acres have been directly (0.026 acres on the project site) and indirectly (0.43 acres off the project site) impacted in waters of the U.S. by the applicant without a permit. These activities consist of grading and trenching activities and have occurred along 134th Street and Via Linda Road. However, the applicant is currently constructing portions of their project outside of waters of the United States. This activity does not preclude the development of alternatives for the project.

The applicant has submitted an on-site compensatory mitigation and monitoring plan for their current and proposed impacts into waters of the United States (0.80 acres). An exhibit of the applicant's proposed mitigation plan is shown on Attachment 4 of this Public Notice. The proposed compensatory mitigation for impacts to waters of the United States from development of this property consist of a creation of a man-made channel, enhancement of the channel and washes, and preservation of wash A and wash I areas through conservation easements. Salvaged or nursery stock vegetation will be planted within the easement area along the wash banks. The applicant's proposed mitigation area totals 6.41 acres. The mitigation area will provide wildlife habitat and will provide separation between the wildlife using wash system A and I and the residential development. The project was designed to avoid impacts to the widest on-site washes. Impacts will occur into the smaller washes located on-site. In addition to the mitigation area, other areas of the development will be re-vegetated with low water use vegetation. Wash crossings at Via Linda Road and 134th Street will be culverted to maintain the flow of water to downstream washes. Salvaged and native vegetation will be replanted within the right-of-way for these roadways.

Proposed Special Conditions

To be developed.

For additional information please call Ann Palaruan at (602) 640-5385 x 227. This public notice is issued by the Chief, Regulatory Branch.



Corps Figure #1 of 4
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FIGURE 2
Sawik Mountain
USGS 7.5 Minute Quadrangle

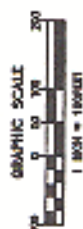
PHOTO DATE: FEB. 2001

PHOTO BY: M AND B AERIAL MAPPING

PARCELS OF LAND LOCATED IN THE NORTHEAST
QUARTER OF SECTION 24, TOWNSHIP 3 NORTH,
RANGE 5 EAST OF THE GILA AND SALT RIVER BASE
AND MERIDIAN, MARICOPA COUNTY, ARIZONA.

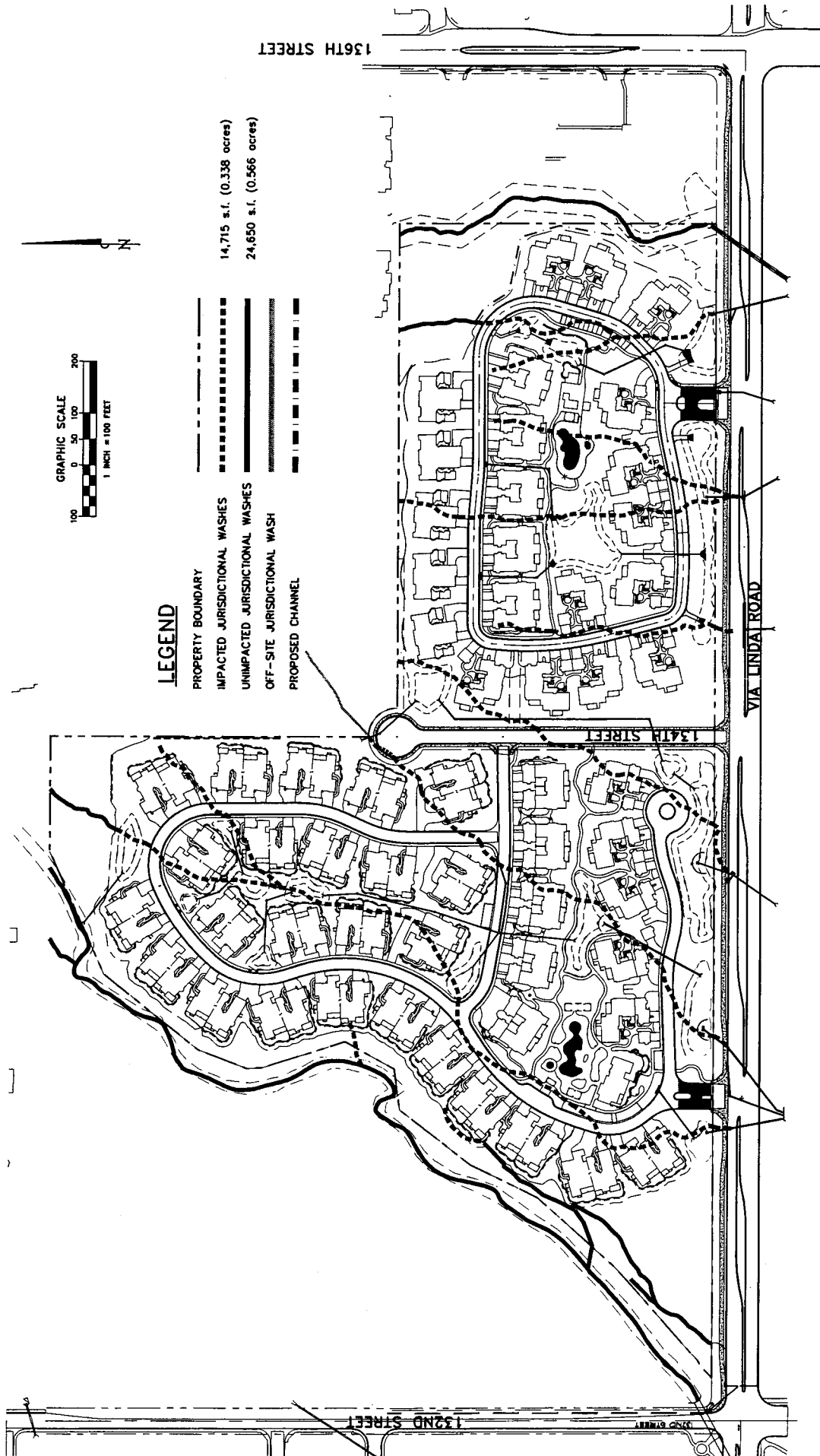
LEGEND

- PROPERTY LINE
- PROPOSED
- ORDINARY HIGH
- WATER MARK OF
- WATERS OF THE U.S.
- MASH SYSTEM
- DESIGNATION
- PHOTO
- LOCATIONS
- AND DIRECTIONS



Corps Figure # 2 of 4
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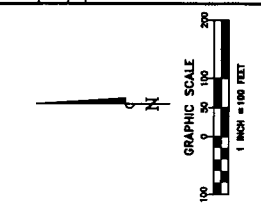
PRE-CONSTRUCTION EXHIBIT



Corps Figure # 3 of 4 POST CONSTRUCTION EXHIBIT
Public Notice No. 2003-00525-NP

REVISIONS
 PROJECT NO. 00525-AP
 PROJECT NAME: MIRAGE MOUNTAIN

Kimley-Horn
 and Associates, Inc.
 7800 North 15th Street, Suite 200
 Phoenix, Arizona 85020 (602) 944-0000



MITIGATION AREAS			
PROPOSED VEGETATION ENHANCEMENT AREA (WEST)	16,741	SF	0.38 AC
PROPOSED VEGETATION ENHANCEMENT AREA (EAST)	178,387	SF	4.08 AC
PROPOSED VEGETATION ENHANCEMENT AREA (SOUTH)	8,365	SF	0.19 AC
PROPOSED VEGETATION ENHANCEMENT AREA (NORTH)	9,822	SF	0.23 AC
PROPOSED CONSERVATION EASEMENT AREA (SOUTH)	3,480	SF	0.08 AC

LEGEND
 PROPERTY BOUNDARY
 UNIMPACTED JURISDICTIONAL BARRIERS
 PROPOSED ENHANCED CONSTRUCTED WASH CORRIDOR
 PROPOSED VEGETATION ENHANCEMENT AREA
 PROPOSED CONSERVATION EASEMENT AREA

NOTE
 ALL PROPOSED VEGETATION ENHANCEMENT AREAS AND CONSERVATION EASEMENT AREAS ARE TO BE LOCATED WITHIN A CONSERVATION EASEMENT.

COMMON NAME	SCIENTIFIC NAME	NO. OF PLANTINGS	NO. OF PLANTINGS
FOXTAIL PALM	OPUNTIA MONOCHLAMA	37	19
YUCCA	YUCCA ELATA	781	414
AGAVE	AGAVE AMERICANA	119	81
YUCCA	YUCCA ELATA	18	3
YUCCA	YUCCA ELATA	6	3
YUCCA	YUCCA ELATA	60	32
YUCCA	YUCCA ELATA	10	5
YUCCA	YUCCA ELATA	10	5
YUCCA	YUCCA ELATA	7	4
YUCCA	YUCCA ELATA	4	2
YUCCA	YUCCA ELATA	2	1



Enhanced Constructed Wash Corridor
 This plan is for the location of the proposed wash corridor. The corridor is to be located within the proposed conservation easement area. The corridor is to be located within the proposed conservation easement area. The corridor is to be located within the proposed conservation easement area.

ENHANCED CONSTRUCTED WASH CORRIDOR
 1/16"



Corps Figure # 40FY
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